

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

CRAIG CUNNINGHAM,

Plaintiff,

v.

JAY POLITI, ET AL.

Defendants.

§
§
§
§
§
§
§
§
§

CIV. A. NO. 4:18-cv-00362-ALM-CAN

DEFENDANTS' UNOPPOSED MOTION TO CONTINUE DEADLINES

Defendants Americo Financial Life & Annuity Company (“Americo”), Bryan Brewer, Katherine Brewer (the “Brewers”), and One Resource Group (“ORG”) (collectively, “Defendants”) hereby file this Unopposed Motion to Continue Deadlines.

I. MOTION

Plaintiff Craig Cunningham (“Plaintiff”) filed his Complaint on May 15, 2018. Doc. 1. Americo and the Brewers filed their Motion to Dismiss Plaintiff’s Original Complaint on August 3, 2018. Doc. 34. ORG filed its Motion to Dismiss on August 16, 2018. Doc. 35. Plaintiff requested, and Defendants agreed, to two extensions of time to file a response with respect to the motions to dismiss. Docs. 36-38, 40. On September 11, 2018, instead of responding to the motions to dismiss, Plaintiff filed his Amended Complaint. Doc. 41. On October 25, 2018, ORG, the Brewers, and Americo each filed motions to dismiss with respect to the Amended Complaint. Docs. 50-52. The motions were fully briefed as of December 10, 2018. Docs. 68-70. Those motions are still pending before the Court.

On November 13, 2018, the Court set a Scheduling Order in which it ruled that discovery was due by April 30, 2019; motions (including dispositive motions) were due by April 15, 2019;

and mediation needed to be completed by April 1, 2019. Doc. 57. Subsequently, Plaintiff and Defendants engaged in preliminary settlement communications via telephone, letter, and e-mail, but have at this time have reached an impasse regarding settlement pending disposition of the motions to dismiss.

On February 21, 2019, the Court held a telephonic status conference in which Defendants communicated the forthcoming deadlines. At that time, no party moved for a continuance of any of the deadlines. As of the filing of this Motion, the motions to dismiss have not yet been ruled on. No discovery has yet been served, and discovery must be served by March 28, 2019 under the present Scheduling Order. No mediation has been scheduled, and mediation is currently required to be completed by April 1, 2019. And it is not fruitful for the parties to file dispositive motions at this time, in light of the pending motions to dismiss, which may dispose of certain parties or claims. Accordingly, Defendants respectfully request a ninety (90) day continuance of the mediation, motions, and discovery deadlines. Specifically, Defendants request an extension of the mediation deadline from April 1, 2019 to July 1, 2019; an extension of the discovery deadline from April 30, 2019 to July 30, 2019; and an extension of the motions deadline from April 15, 2019 to July 15, 2019.

These extensions are not requested to cause delay, but rather to provide Plaintiff and Defendants more time to assess settlement options, discovery, and motions-drafting once the Court has ruled on the pending motions to dismiss. Plaintiff has indicated he is unopposed to the relief sought by this Motion.

II. CONCLUSION

Defendants respectfully request that the Court continue the mediation deadline from April 1, 2019 to July 1, 2019, the discovery deadline from April 30, 2019 to July 30, 2019, and the

motions deadline from April 15, 2019 to July 15, 2019. Defendants further request all additional and further relief to which they may be justly entitled.

Date: March 28, 2019

Respectfully submitted,

/s/ Matthew B. Buongiorno

Brian I. Hays

Illinois State Bar No. 6256068

bhays@lockelord.com

LOCKE LORD LLP

111 S. Wacker Drive

Chicago, Illinois 60606

Telephone: (312) 443-1707

-and-

Matthew B. Buongiorno

Texas State Bar No. 24097436

matthew.buongiorno@lockelord.com

LOCKE LORD LLP

2200 Ross Avenue, Suite 2800

Dallas, Texas 75201-6776

Telephone: (214) 740-8000

Facsimile: (214) 740-8800

**ATTORNEYS FOR AMERICO FINANCIAL LIFE &
ANNUITY COMPANY, KATHERINE BREWER, AND
BRYAN BREWER**

/s/ Linda A. Polley

Linda A. Polley

Indiana State Bar No. 10897-02

lpolley@hallercolvin.com

Scot T. Skekloff

Indiana State Bar No. 15649-02

sskekloff@hallercolvin.com

HALLER & COLVIN, P.C.

444 East Main Street

Fort Wayne, Indiana 46802

Telephone: (260) 426-0444

Facsimile: (260) 422-0274

**ATTORNEYS FOR DEFENDANT
ONE RESOURCE GROUP COMPANY**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served upon all counsel of record *via the Court's CM/ECF system and/or first-class mail* on March 28, 2019.

/s/ Matthew B. Buongiorno

Counsel for Americo Financial Life & Annuity
Company, Katherine Brewer, and Bryan Brewer

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that on March 28, 2019, he conferred with Plaintiff Craig Cunningham by e-mail, and Plaintiff indicated he is unopposed to the relief sought in this Motion.

/s/ Matthew B. Buongiorno

Counsel for Americo Financial Life & Annuity
Company, Katherine Brewer, and Bryan Brewer